

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Case No. 06-cr-166-01-SM

Antron Hughes

ORDER

Re: Document No. 28, Motion to Appoint Counsel (re: Crack Cocaine Amendment)

Ruling: Denied. Defendant, by letter, seeks to have his sentence reduced based upon the United States Sentencing Commission's retroactive amendment of the "crack" cocaine guideline (Amendments 706 and 711, effective March 3, 2008). Defendant's guideline sentencing range was based upon his career offender status, and was not based on a sentencing range that has subsequently been lowered (i.e. the retroactive "crack" amendment), therefore his sentence cannot be reduced on that ground. See United States v. Ayala-Pizarro, 551 F.3d 84 (1st cir. 2008); United States v. Caraballo, 552 F.3d 6 (1st Cir. 2008). The court notes that defendant was sentenced well below the advisory guideline range based on his motion for a variant non-guideline sentence, and a further reduction would not be appropriate even if the retroactive amendment applied here.


Steven J. McAuliffe
Chief Judge

Date: February 25, 2009

cc: Antron Hughes, pro se
Bjorn Lange, Esq.
Helen Fitzgibbon, AUSA